

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:14CR11-2
(Judge Keeley)

WILLIAM MURPHY,

Defendant.

**ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
RECOMMENDATION THAT DEFENDANT'S GUILTY PLEA
BE ACCEPTED AND SCHEDULING SENTENCING HEARING**

On March 13, 2014, defendant, William Murphy ("Murphy") appeared before United States Magistrate Judge John S. Kaull and moved for permission to enter a plea of GUILTY to Count Nine of the Indictment. Murphy stated that he understood that the magistrate judge is not a United States district judge, and consented to pleading before the magistrate judge. This Court had referred the guilty plea to the magistrate judge for the purposes of administering the allocution pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Murphy's statements during the plea hearing and the stipulation of the parties accepting the government's proffer as an independent basis in fact, the magistrate judge found that Murphy

**ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
RECOMMENDATION THAT DEFENDANT'S GUILTY PLEA
BE ACCEPTED AND SCHEDULING SENTENCING HEARING**

was competent to enter a plea, that the plea was freely and voluntarily given, that he was aware of the nature of the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. On March 14, 2014, the magistrate judge entered an Opinion/Report and Recommendation Concerning Plea of Guilty in Felony Case ("R&R") (dkt. no. 68) finding a factual basis for the plea and recommended that this Court accept the plea of guilty to Count Nine of the Indictment.

The magistrate judge also directed the parties to file any written objections to the report and recommendation within fourteen (14) days after service of the report and recommendation. The magistrate judge further directed that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the report and recommendation. On March 17, 2014, the government by Assistant United States Attorney Shawn A. Morgan ("Morgan") responded to the R&R stating the government had not objection (dkt. no. 71). Murphy did not file any objections.

Accordingly, this Court **AFFIRMS** the magistrate judge's R&R, **ACCEPTS** Murphy's plea, and **ADJUGES** him **GUILTY** of the crime charged in Count Nine of the Indictment.

ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
RECOMMENDATION THAT DEFENDANT'S GUILTY PLEA
BE ACCEPTED AND SCHEDULING SENTENCING HEARING

Pursuant to Fed. R. Crim. P. 11(e)(2) and U.S.S.G. § 6B1.1(c), acceptance of the proposed plea agreement and stipulated addendum to the plea agreement, is **DEFERRED** until the Court has received and reviewed the presentence report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., it is hereby **ORDERED** that:

1. The Probation Officer undertake a presentence investigation of **WILLIAM MURPHY** and prepare a presentence report for the Court;

2. The Government and Murphy are to provide their versions of the offense to the probation officer by **April 16, 2014**;

3. The presentence report is to be disclosed to Murphy, defense counsel, and the United States on or before **May 26, 2014**; however, the Probation Officer is not to disclose the sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the presentence report on or before **June 9, 2014**;

5. The Office of Probation shall submit the presentence report with addendum to the Court on or before **June 23, 2014**; and

6. Counsel may file any written sentencing statements and motions for departure from the Sentencing Guidelines, including the

ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
RECOMMENDATION THAT DEFENDANT'S GUILTY PLEA
BE ACCEPTED AND SCHEDULING SENTENCING HEARING

factual basis from the statements or motions, on or before **July 7, 2014.**

Magistrate Judge Kaul1 remanded Murphy to the custody of the United States Marshals.

The Court will conduct the sentencing hearing for the defendant on **Friday, July 25, 2014 at 11:30 A.M.** at the **Clarksburg, West Virginia** point of holding court.

It is so **ORDERED.**

The Clerk is directed to transmit copies of this Order to counsel of record, the defendant and all appropriate agencies.

DATED: April 3, 2014

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE